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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. DARRYL PIERRE CRAWFORD, Defendant and Appellant.	D060110 (Super. Ct. No. RIF150644)

APPEAL from a judgment of the Superior Court of Riverside County, Rafael A. Arreola, Judge. (Retired judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.) Affirmed.

A jury convicted defendant Darryl Crawford of two counts of assault with a deadly weapon (Pen. Code,[1] § 245, subd. (a)(1), counts 4 (victim Cassandra Crawford) and 3 (victim Jermaine Mims)) and one count of making a criminal threat (§ 422, count 2). Crawford contends the court erroneously admitted certain testimony by a police

1 All further statutory references are to the Penal Code unless otherwise specified.

officer, erred in instructing with CALCRIM No. 371, and that the evidence is insufficient to support the convictions for assault with a deadly weapon.

I

FACTS

A. Prosecution Case

Crawford married Cassandra Crawford (Cassandra) in 1999 but their relationship began to deteriorate in 2005. The criminal charges arose out of events occurring during May 2009.

In March or April of 2009, Crawford physically assaulted Cassandra when he grabbed her arm during an argument, pulled her from their house to the curb and left her there. She went to a nearby park but Crawford followed her and tried to take her purse. He stopped his assault and left when a man approached them as they struggled. She called police and the responding officer (Officer Vasquez) told her the only way police could help her is if she obtained a restraining order against Crawford. About a month later, Cassandra telephoned Crawford to confront him about bills he paid for a motel and an online dating service, because she suspected he was cheating on her. He told her they would talk about it later. When he arrived home he was confrontational and told her he was "sick of [her]." He grabbed her by the neck and shoved her so hard against the wall that one of her shoes came off, and told her "I'll snap your mother fucking neck." As she started toward the door into the garage to leave, he grabbed her, slammed the door shut, and twisted her hand and arm, causing her to scream.

Cassandra began calling shelters but they warned her not to call if the perpetrator was close by. A friend arrived and tried talking to Crawford but to no avail. Crawford watched Cassandra as she gathered a few belongings from her bedroom in preparation to leave. She tried to take her laptop, but he refused to allow her to take it. When he was not looking, she placed the laptop into one of the suitcases but, as she was getting into her friend's car, Crawford (apparently realizing she had taken her laptop) came out and tried to snatch the suitcases away from her. He succeeded in grabbing one of the suitcases, which he took inside the house. He then locked the door.

Cassandra stayed with friends and family for a while, but she was forced to go back to the house briefly to sneak in and pick up some clothes while Crawford was away. Crawford figured she had been in the house and called her. He told her, "I dare you to come back," which she interpreted to mean he would harm her if she returned. However, a few days later, Crawford called her and politely offered to return her laptop, and they met at a neutral public site where they made the exchange without incident. Cassandra needed to retrieve the remainder of her belongings, including her car, but believed she would need the assistance of police to safely retrieve her belongings. Accordingly, she applied for a restraining order against Crawford.

Vasquez and others served Crawford with the temporary restraining order. When officers (who had their weapons drawn) told Crawford he had to leave the house, he told them he would only leave when he was dead. Vasquez was able to calm him, and explained the TRO to Crawford, who was angry at Cassandra. Crawford ultimately

gathered some of his belongings and said he would be back. Vasquez explained that, if Crawford returned, he would be arrested. Crawford left in his car.

After the officers served Crawford with the TRO, he called Cassandra and said, "I'm going to kill you. . . . [Y]ou think you're going to throw me out of my house? When I see you, you're dead." A few minutes later, Vasquez called Cassandra and suggested she stay away from the house for a few days because he was concerned for her safety. She told Vasquez of Crawford's threat a few minutes earlier, and Vasquez told her Crawford had threatened to kill her. That evening, Crawford again called Cassandra and dared her to come back home, and told her that if she thought she could take her car, she could try to come and get it.

Because Cassandra feared Crawford was still in the house despite the TRO, she went to the home hoping to sneak in to collect some belongings. She was accompanied by her cousin, Jermaine Mims. She clicked the garage door opener but, when she saw both her car and Crawford's in the garage, she instructed Mims to keep driving. Cassandra also called 911. Suddenly, they saw Crawford following them in his car. Crawford accelerated alongside Mims's car, and was driving aggressively trying to block them in. When they stopped at a light, Crawford got out of his car, spat at Cassandra through her open window, and said, "I told you bitch, I'm going to kill you."

When the light turned green, Mims was able to drive away. However, Crawford drove aggressively after them. Crawford sped up to get in front of them and then slammed on his brakes, and also swerved towards Mims's car. At times the chase reached 80 miles per hour on residential streets. When they stopped at another traffic

light, Crawford sped up and blocked them in with his car. Crawford got out, retrieved something that looked like a crow bar from his trunk, walked toward them and cocked his arm as if to swing at them. He took an aggressive swing at the window but stopped short of hitting it. When the light turned green, Mims was able to maneuver around Crawford's car and drive away. Crawford eventually broke off the chase and left, and Mims and Cassandra met police at a Carl's Jr. restaurant.

Police contacted Crawford by phone and arranged to meet him at a nearby park. When Crawford arrived, he was arrested, handcuffed, and placed in the back of Vasquez's police car. Police transported Crawford back to the house but left him in the police car while Sergeant Hutzler and Vasquez went inside the house.

Because there was a strong smell of gasoline when officers entered the house, they called the fire department. The fire department dispatched a unit at 11:58 a.m. and it arrived a few minutes later. Fire Captain Miller of the Riverside Fire Department arrived at 12:42 p.m. to investigate a possible attempted arson. Miller's trained dog alerted to the smell of gasoline coming from Cassandra's black Lexus in the driveway, and Miller could see a liquid on the floor of the car's interior. The dog also alerted to red fuel containers in the garage.

At some point, Vasquez asked Crawford if they needed to be concerned for their safety based on the odors and the empty bottles found by police. At first, Crawford was uncooperative, but he then admitted he had poured gasoline inside the Lexus. Crawford said nothing at that time about the lug nuts on the gasoline-soaked car.

While speaking with police in the kitchen, Cassandra told Hutzler that Crawford was diabetic and needed something to drink and Hutzler brought a drink to Crawford, who was still sitting in the patrol car. While Crawford was drinking the water, he faced the garage where the gasoline-soaked car was parked and said (in reference to fire department personnel about to move the car) that "I wouldn't do that if I was you." Hutzler asked him why, and Crawford said he had rigged the car with explosives to cause someone harm, but did not want any innocent parties to get hurt. Hutzler yelled out for the personnel to stop. Crawford then said he had removed the lug nuts from the car, and Hutzler warned the fire personnel not to move the car because the lug nuts had been removed.

Hutzler confirmed the lug nuts had been removed, and returned to the kitchen and told Vasquez and Cassandra the lug nuts were off her car and that Crawford had rigged the car. Vasquez later asked Crawford about where the lug nuts could be found, and Crawford told him they were inside Crawford's medicine bag. Vasquez later found the lug nuts.

II

ANALYSIS

A. Admission of Crawford's Statements to Sergeant Hutzler

Crawford contends the trial court erred by denying his in limine motion to exclude testimony by Hutzler that Crawford made statements that he purposefully removed the lug nuts to turn Cassandra's car into an incendiary device. He asserts, for the first time on appeal, that this testimony should have been excluded (1) based on an alleged "ruling" as

to their admissibility made by a trial judge in Crawford's first trial and (2) as inadmissible hearsay.

Procedural Background

In Crawford's first trial, the jury convicted him of attempted murder, attempted arson, criminal threats, and two counts of assault with a deadly weapon. He moved for a new trial, arguing the prosecution's theory for the charges of attempted murder and attempted arson was that Crawford plotted to kill Cassandra using the gasoline-soaked car that would ignite from the spark caused when she tried to drive without the tires being secured by the lug nuts. Crawford argued the only evidence transforming these acts from ones of vandalism to ones of attempted murder and attempted arson was his alleged admissions to Hutzler, i.e. that Crawford knew of the potential explosion and wished no one *innocent* would be harmed. His new trial motion argued the timelines established the falsity of Hutzler's testimony about Crawford's admissions, i.e. the recordings showed Hutzler's version of events could not have occurred as described, and therefore his claim about Crawford's admissions could not be true. Under these circumstances, Crawford asserted a new trial was proper. The first trial court granted the new trial motion. The court observed that if it were "ruling on a [section] 402 motion" on the state of the evidence before it (which included some new evidence introduced at the new trial motion), it would have "grant[ed] the [section] 402 [motion] and [kept] that statement out." The court, concluding the statements were pivotal to the attempted murder and attempted arson charges and "might carry over as well to the [assault] issue," granted the motion for a new trial.

At his retrial, Crawford again moved to exclude Hutzler's testimony that Crawford blurted out a warning not to move the car because of the missing lug nuts. Crawford, noting the new trial motion was granted because the first judge would not have allowed the evidence in because of the defense evidence proving Hutzler's testimony was false, argued that testimony should be excluded under Evidence Code section 352 because "the proof is so strong that [Hutzler] is not being truthful in his testimony that the Court cannot allow the jury to hear it . . . ." The prosecution, responding to defense counsel's reference to the prior ruling, noted that "the previous trial, *as* [*defense counsel*] *has pointed out to this Court . . . in chambers . . . is a different trial, and . . . has no relevance or bearing to the* [*defense motion to exclude*] *that we're having now*" (italics added), and argued exclusion was inappropriate because "[i]t's for the jury to determine whether or not someone is testifying truthfully." Defense counsel replied "*that I'm not basing my argument on the fact that the other judge ruled that way*, I'm just explaining why this is an appropriate motion under [Evidence Code section] 402 that the Court does have to make a determination under [Evidence Code section 352] . . . since the Court has to rule on its believability." (Italics added.) After conducting a hearing on his Evidence Code section 402 motion, at which Hutzler and Vasquez testified, the court rejected Crawford's motion under Evidence Code section 352, concluding Hutzler's testimony was admissible and it was "a jury question as to whether or not the statement was made."

Analysis

Crawford asserts for the first time on appeal that it was error, under the rationale of *People v. Riva* (2003) 112 Cal.App.4th 981,[2] to admit Hutzler's testimony about Crawford's hearsay statements at the second trial because the admissibility of that evidence was settled by the first trial court's ruling against its admissibility. However, we are convinced this argument is waived. Crawford did not raise this argument below, and asserted the directly opposite position: he argued the evidence should be excluded under Evidence Code section 352 and expressly eschewed any reliance on the first trial court's action, stating "I'm not basing my argument [to exclude the evidence] on the fact that the other judge ruled that way." It is not enough that Crawford raised *some* objection to the evidence, because it has long been the law that "[a] judgment will not be reversed on grounds that evidence has been erroneously admitted unless 'there appears of record an objection to or a motion to exclude or to strike the evidence that was timely made and so *stated as to make clear the specific ground of the objection or motion . . . .'* [Citation.] Specificity is required both to enable the court to make an informed ruling on the motion or objection and to enable the party proffering the evidence to cure the defect in the evidence." (*People v. Mattson* (1990) 50 Cal.3d 826, 853-854.) Crawford may not raise

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2 Crawford also cites federal cases to argue a ruling by the first court should not be overturned in a second trial absent specific justifications. (See, e.g., *U.S. v. Alexander* (9th Cir. 1997) 106 F.3d 874, 876.) However, that approach is not universally applied by the federal courts (see, e.g., *U.S. v. Akers* (D.C.Cir. 1983) 702 F.2d 1145, 1147-1149; *U.S. v. Todd* (6th Cir. 1990) 920 F.2d 399, 403), and we decline to resolve the dispute among the federal courts.

on appeal some variant of a "law of the case" argument when he specifically jettisoned that argument below.

Crawford cites *People v. Partida* (2005) 37 Cal.4th 428 (*Partida*) as holding that his Evidence Code section 352 objection sufficed to preserve his argument that admission of the evidence violated his due process rights. Crawford's argument misapplies *Partida*. The *Partida* court specifically reiterated that a defendant's failure to make a timely and specific objection on the ground asserted on appeal makes that ground not cognizable on appeal. (*Partida,* at p. 434.) The requirement for a specific objection, explained *Partida*, is " 'simply a matter of fairness and justice' " (*ibid.*), and stated that:

> "The objection requirement is necessary in criminal cases because a 'contrary rule would deprive the People of the opportunity to cure the defect at trial and would "permit the defendant to gamble on an acquittal at his trial secure in the knowledge that a conviction would be reversed on appeal." ' (*People v. Rogers* (1978) 21 Cal.3d 542, 548.) 'The reason for the requirement is manifest: a specifically grounded objection to a defined body of evidence serves to prevent error. It allows the trial judge to consider excluding the evidence or limiting its admission to avoid possible prejudice. It also allows the proponent of the evidence to lay additional foundation, modify the offer of proof, or take other steps designed to minimize the prospect of reversal.' [Quoting *People v. Morris* (1991) 53 Cal.3d 152, 187-188, disapproved on other grounds by *People v. Stansbury* (1995) 9 Cal.4th 824, 830, fn.1.]" (*Partida*, at p. 434.)

In *Partida*, the defendant objected to the admission of gang evidence under Evidence Code section 352, arguing its prejudicial impact outweighed its probative value, and *Partida* concluded that as long as the objection "fairly inform[s] the trial court, as well as the party offering the evidence, of the specific reason or reasons the objecting party believes the evidence should be excluded . . . [and] the court overrules the

objection, the objecting party may argue on appeal that the evidence should have been excluded for the reason asserted at trial." (*Partida, supra,* 37 Cal.4th at p. 435.) However, *Partida* cautioned that a defendant "may not argue on appeal that the court should have excluded the evidence for a reason different from the one stated at trial. A party cannot argue the court erred in failing to conduct an analysis it was not asked to conduct." (*Ibid.*) Because the defendant's Evidence Code section 352 objection "alerted the court to the nature of the anticipated evidence *and the basis on which its exclusion was sought* [and thereby] permitted the court to make an informed ruling and gave the People the opportunity to establish the evidence's admissibility[,] [o]n appeal, defendant may argue that the court erred in its ruling." (*Ibid.*, italics added.) *Partida* concluded that, because the Evidence Code section 352 objection alerted the court that he contended admission of the evidence would unfairly prejudice his defense, the defendant was entitled to "make a very narrow due process argument on appeal," i.e. that admission of the evidence violated due process because it made the trial fundamentally unfair. (*Partida,* at pp. 435-436.)

Under *Partida*, Crawford's Evidence Code section 352 objection preserves only his ability to argue admission of his statements to Hutzler rendered his trial fundamentally unfair. However, we reject this claim because his statements to Hutzler were at most germane to showing his specific intent for the charged offenses of attempted arson and attempted murder. His trial was not rendered unfair as to those counts because he was acquitted of the former, and the latter count was dismissed after the jury was unable to reach a verdict on that charge. Crawford was not denied due process.

Crawford alternatively asserts that, under *People v. Cudjo* (1993) 6 Cal.4th 585 (*Cudjo*), the court erroneously admitted his statements to Hutzler because they were inadmissible hearsay. Crawford contends there was an inadequate showing his statement was made as represented by Hutzler because it was physically impossible and its falsity apparent. He does not contest that, if made, it qualified as a statement against penal interest exception to the hearsay rule. Even assuming this ground was preserved, *Cudjo* does not assist Crawford's claim of error. *Cudjo* explained that:

> "When evidence is offered under one of the hearsay exceptions, the trial court must determine, as preliminary facts, both that the out-of-court declarant made the statement as represented, and that the statement meets certain standards of trustworthiness. [Citation.] The first determination—whether the declaration was made as represented—is governed by the substantial evidence rule. The trial court is to determine *only* whether there is evidence sufficient to sustain a finding that the statement was made. [Citation.] As with other facts, the direct testimony of a single witness is sufficient to support a finding unless the testimony is physically impossible or its falsity is apparent *'without resorting to inferences or deductions*.' [Quoting *People v. Huston* (1943) 21 Cal.2d 690, 693; citations.] Except in these rare instances of demonstrable falsity, doubts about the credibility of the in-court witness should be left for the jury's resolution; such doubts do not afford a ground for refusing to admit evidence under the hearsay exception for statements against penal interest." (*Cudjo*, *supra*, at pp. 608-609, italics added.)

The trial court properly admitted the evidence. There was some evidence from which a jury could have found Crawford made the statements to Hutzler, based on both Hutzler's direct testimony as well as Vasquez's testimony that, when Hutzler returned from bringing Crawford his beverage, he told Vasquez the lug nuts on the tires were missing.

Crawford does not assert Hutzler's testimony was demonstrably false based on physical impossibility. Instead, he argues it was demonstrably false because the time stamps on a tape recording made by Vasquez's belt recorder were in conflict with the time stamps on Fire Department records. However, to determine falsity on this basis required "resort[] to inferences or deductions," i.e. that the time-stamping mechanism on Vasquez's recorder was in precise synchronicity with the Fire Department's time-stamping mechanism. Under those circumstances, the trial court correctly determined it was for the trier of fact to determine the credibility of Hutzler's testimony in light of the other evidence, and therefore properly overruled Crawford's objection. We conclude the evidence was not inadmissible hearsay.

B. The Claim of Instructional Error

Crawford argues the court erroneously instructed the jury with a portion of CALCRIM No. 371 because there was no evidence to support the instruction, and the error was prejudicial.

Background

Midway through Cassandra's testimony at trial, the court took an afternoon recess. Immediately after returning from the recess, the following exchange occurred:

> "[Prosecutor]: All right. We're safe now. [¶] Now, I'm going to go a little bit off topic for a moment, okay? Are there times [when] you've been in this courtroom [when] you've been asked to kind of sit back here and wait until our proceedings start [when] the jury is not in here?
>
> "[Cassandra]: Yes
>
> "[Prosecutor]: Mr. Crawford ever turn around towards you?

"[Cassandra]: Quite often.

"[Prosecutor]: Okay. And when he's turning around towards you when the jurors aren't here and you're sitting in the back of the courtroom, how is he acting towards you?

"[Cassandra]: Evil looks, leering at me, gesturing something crazy towards me, lip—he's wording something but I try not to pay attention, just play ignorant.

"[Prosecutor]: Do you hear the word 'bitch' at all?

"[Cassandra]: I didn't hear it, but I don't know if he lipped it. I don't know if he worded it.

"[Prosecutor]: All right. I'm going to go on. Now, I have the photo, People's 8.

"[Crawford]: I'm talking about her nose."

"[The Deputy]: Knock that off.

"[Prosecutor]: Your Honor, maybe this would be a good time to take another break very briefly."

After a short recess, during which Crawford apologized to the court for his outburst, Cassandra's trial testimony resumed.

After the close of evidence, while the parties were discussing jury instructions, the prosecution asked for the first paragraph of CALCRIM No. 371 to be given to the jury. Crawford objected, asserting there was no evidence to support the instruction because Crawford merely made a comment and "look[ed] at the [witness] before [she] testified, and I don't think that constitutes dissuading . . . ." The court, noting the witness "testified as to the conduct, which was more than mere looking, I believe, and there was conduct

exhibited in open court that I think . . . is sufficient" to support the instruction, and gave an instruction derived from CALCRIM No. 371.

The court instructed: "If the defendant tried to hide evidence or discourage someone from testifying against him, that conduct may show that he was aware of his guilt. If you conclude that the defendant made such an attempt, it is up to you to decide its meaning and importance. However, evidence of such an attempt cannot prove guilt by itself."

Analysis

A court may instruct on permissible inferences when there is some evidence to support those inferences (*People v. Hannon* (1977) 19 Cal.3d 588, 597, disapproved on other grounds by *People v. Martinez* (2000) 22 Cal.4th 750, 762-763), and an inference of a defendant's awareness of his guilt may be drawn when there is some evidence he or she attempted to dissuade a witness from testifying against the defendant at trial. (Cf. *People v. Valdez* (2004) 32 Cal.4th 73, 137-138.) Cassandra's testimony about Crawford's conduct toward her when she was in the courtroom awaiting the jury's return from recess, which the court undoubtedly also saw and which prompted the prosecutor (once the jury had returned) to reassure her by saying, "All right. We're safe now," was sufficient to support the instruction.

Moreover, because the jury was further instructed that "[s]ome of these instructions may not apply, depending on your findings about the facts of this case," it was only potentially applicable if the jury credited Cassandra's testimony that Crawford was casting evil looks, leers and gestures toward her and further concluded that was an

effort to intimidate her into skewing her testimony in his favor. Absent such factual determinations, no inference against Crawford was permissible and the instruction became surplusage. However, if those factual determinations *were* made, the jury still was required to decide their meaning and importance, and was specifically admonished the conduct "cannot prove guilt." Under these circumstances, we conclude the instruction was proper.

C. Sufficiency of the Evidence

Crawford challenges the sufficiency of the evidence to support the convictions on the assault with a deadly weapon counts. He argues the evidence showed the car chase was consistent *only* with an intent to chase after Mims's car so Crawford could yell at Cassandra, and there was no evidence from which a reasonable jury could have found he intended to crash his car into Mims's car.

Legal Principles

When the defendant challenges the sufficiency of the evidence on appeal, we "must examine the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—evidence that is reasonable, credible and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt." (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) In conducting this analysis, we view the record in the light most favorable to the prevailing party. (*People v. Johnson* (1980) 26 Cal.3d 557, 562.) If there is any evidence substantial enough to support the judgment, even in light of competing evidence, the judgment must not be disturbed. (*People v. Ceja* (1993) 4 Cal.4th 1134, 1139.)

The elements of assault with a deadly weapon are: (1) the defendant did an act with a deadly weapon that by its nature would directly and probably result in the application of force to a person; (2) the defendant did the act willfully; (3) when he or she did so, the defendant was aware of facts that would lead a reasonable person to realize his or her act would result in the application of force to someone; and (4) the defendant had the present ability to apply force with the deadly weapon. (§§ 240, 245, subd. (a)(1); *People v. Golde* (2008) 163 Cal.App.4th 101, 120-123.) The mental element for the assault charge is that "assault does not require a specific intent to cause injury or a subjective awareness of the risk that an injury might occur. Rather, assault only requires an intentional act and actual knowledge of those facts sufficient to establish that the act by its nature will probably and directly result in the application of physical force against another." (*People v. Williams* (2001) 26 Cal.4th 779, 790.) As long as the prosecution shows "the defendant willfully committed an act that by its nature will probably and directly result in injury to another . . . the prosecution need not prove a specific intent to inflict a particular harm. . . ." (*People v. Colantuono* (1994) 7 Cal.4th 206, 214.)

Analysis

There is substantial evidence from which a jury could have found Crawford guilty of assault with a deadly weapon. When Crawford began following Mims's car, the cars were driving on a residential street at normal speeds but Crawford, utilizing the lane designed for cars to travel in the opposite direction, sped up and pulled alongside Mims's car. When Mims was forced to stop at a red light, Crawford jumped from his car, came around to the passenger window of Mims's car, and threatened Cassandra's life. When

the light turned green, Mims was able to drive away, but Crawford renewed his pursuit and was driving very aggressively. Crawford sped up and moved in front of them and then slammed on his brakes, forcing Mims to slam on his brakes and come "just like inches from hitting him." Crawford also moved next to and swerved at Mims's car at one point, and Cassandra testified "[t]here was one point I thought he was going to sideswipe [Mims's] vehicle. . . . I remember screaming. . . . [Crawford] got very close." Mims verified Crawford "was swerving[,] trying to run me off the road," and Crawford swerved at Mims's car three or four times. The speeds reached nearly 80 miles per hour as Mims tried to prevent Crawford from striking Mims's car.

This evidence supports a finding that Crawford willfully did an act with a deadly weapon (his car) that by its nature could directly and probably result in the application of force to a person, and acted with an awareness of facts that would lead a reasonable person to realize his or her act could result in the application of force to someone, and that he had the present ability to apply force with his car. The fact Crawford did not actually strike Mims's car is irrelevant. As the court in *People v. Golde, supra,* 163 Cal.App.4th 101 made clear, "there is no merit to defendant's argument that if he wanted to hit the victim, he could have hit her, and therefore the fact that he did not hit her means he had no intent to hit her. Under [controlling law], defendant did not have to intend to hit the victim to be guilty of assault." (*Id.* at p. 109.)

We are not persuaded by Crawford's reliance on *People v. Cotton* (1980) 113 Cal.App.3d 294 and *People v. Jones* (1981) 123 Cal.App.3d 83, which he cites for the proposition that car chases cannot satisfy the mental element necessary to assault with a

deadly weapon. In both *Cotton* and *Jones*, the defendants drove their respective vehicles in an extremely reckless manner but, unlike the present case, there was no evidence in either *Cotton* or *Jones* from which a jury could have found the drivers intended to commit a battery on the person of another or intended to commit an act the natural consequences of which would have been the application of force on the person of another. (*People v. Cotton*, *supra*, 113 Cal.App.3d at pp. 301-307; *People v. Jones*, *supra*, 123 Cal.App.3d at p. 96.) Here, there was evidence from which a reasonable jury could have found Crawford drove his car at Cassandra and Mims in a manner menacing their physical safety, and therefore substantial evidence supports the convictions for assault with a deadly weapon.

DISPOSITION

The judgment is affirmed.

McDONALD, Acting P. J.

WE CONCUR:

McINTYRE, J.

AARON, J.